

“(1) **TERMINATION DATE.**—The authority provided by this section terminates on September 30, 2013.

“SEC. 380U. COMMODITY CREDIT CORPORATION.

The Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this subtitle, to remain available until expended.

“SEC. 380V. TRANSITION PROVISIONS.

“(a) TOBACCO STOCKS.—

“(1) **IN GENERAL.**—To provide for the orderly disposition of quota tobacco held by an association that has entered into a loan agreement with the Commodity Credit Corporation under section 106A or 106B of the Agricultural Act of 1949 (7 U.S.C. 1445–1, 1445–2) (referred to in this section as an ‘association’), loan pool stocks for each kind of tobacco held by the association shall be disposed of in accordance with this subsection.

“(2) **ASSOCIATIONS.**—For each kind of tobacco held by an association, the proportion of loan pool stocks for each kind of tobacco held by the association that shall be transferred to the association shall be equal to—

“(A) the amount of funds held by the association in the No Net Cost Tobacco Fund and the No Net Cost Tobacco Account established under sections 106A and 106B of the Agricultural Act of 1949 (7 U.S.C. 1445–1, 1445–2), respectively, for the kind of tobacco; divided by

“(B) the average list price per pound for the kind of tobacco, as determined by the Secretary.

“(3) **COMMODITY CREDIT CORPORATION.**—Any loan pool stocks of a kind of tobacco of an association that are not disposed of in accordance with paragraph (2) shall be—

“(A) transferred by the association to the Commodity Credit Corporation; and

“(B) disposed of in a manner determined by the Secretary.

“(b) NO NET COST FUNDS.—

“(1) **IN GENERAL.**—Any funds in the No Net Cost Tobacco Fund or the No Net Cost Tobacco Account of an association established under sections 106A and 106B of the Agricultural Act of 1949 (7 U.S.C. 1445–1, 1445–2), respectively, that remain after the application of subsection (a) and sections 106A and 106B of the Agricultural Act of 1949 (7 U.S.C. 1445, 1445–1) (as in effect before the effective date of this subtitle) shall be transferred to the association for distribution to traditional producers of tobacco in accordance with a plan approved by the Secretary.

“(2) **ASSOCIATIONS WITH NO LOAN POOL STOCKS.**—In the case of an association that does not hold any loan pool stocks that are covered by subsection (a)(2), any funds in the No Net Cost Tobacco Fund or the No Net Cost Tobacco Account of the association established under sections 106A and 106B of the Agricultural Act of 1949 (7 U.S.C. 1445–1, 1445–2), respectively, shall be transferred to the association for distribution to traditional producers of tobacco in accordance with a plan approved by the Secretary.

“(c) **REIMBURSEMENT TO COMMODITY CREDIT CORPORATION.**—There shall be transferred from the Tobacco Trust Fund to each No Net Cost Tobacco Fund or the No Net Cost Tobacco Account of an association established under sections 106A and 106B of the Agricultural Act of 1949 (7 U.S.C. 1445–1, 1445–2), respectively, such amounts as the Secretary determines will be adequate to reimburse the Commodity Credit Corporation for any net losses that the Corporation may sustain under its loan agreements with the association.”.

SEC. 1152. TOBACCO INSURANCE RESEARCH AND DEVELOPMENT.

(a) **IN GENERAL.**—Section 522(b)(1) of the Federal Crop Insurance Act (7 U.S.C. 1522(b)(1)) is amended—

(1) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively, and indenting appropriately;

(2) by striking “The Corporation” and inserting the following—

“(A) **IN GENERAL.**—The”; and

(3) by adding at the end the following:

“(B) **TOBACCO RESEARCH AND DEVELOPMENT.**—Subject to the availability of funds under subsection (e)(5), the Corporation shall provide a payment to reimburse an applicant for research and development costs directly related to a policy that is—

“(i) submitted to the Board and approved by the Board under section 508(h) for reinsurance;

“(ii) if applicable, offered for sale to producers; and

“(iii) addresses risk in the production of tobacco.”.

(b) **ASSESSMENTS.**—Section 522(e) of the Federal Crop Insurance Act (7 U.S.C. 1522(e)) is amended by adding at the end the following:

“(5) **TOBACCO ASSESSMENT.**—

“(A) **IN GENERAL.**—Effective for each marketing year for a kind of tobacco for which a commodity-specific plan of insurance is offered under this Act, subject to subparagraphs (B) through (D), each producer and purchaser of that kind of tobacco shall remit to the Insurance Fund established under section 516(c) a non-refundable marketing assessment in an amount determined by the Secretary pursuant to subparagraphs (B) and (C).

“(B) **TOTAL AMOUNT.**—The total amount of producer and purchaser assessments for a kind of tobacco collected under this paragraph shall be equal to the amount that is necessary to carry out subsection (b)(1)(B).

“(C) **ADMINISTRATION.**—Producer and purchaser assessments for a kind of tobacco under this paragraph—

“(ii) shall be determined in such a manner that producers and purchasers share equally, to the maximum extent practicable, in paying assessments required under this paragraph; and

“(iii) shall not exceed 5 cents per pound.

“(D) **TERMINATION.**—Effective beginning with the 2010 crop of each kind of tobacco, the Secretary may terminate the collection of assessments for that kind of tobacco if the Secretary determines that further research and development under subsection (b)(1)(B) would not be productive.”.

(c) **INSURANCE FUND.**—Section 516(c)(1) of the Federal Crop Insurance Act (7 U.S.C. 1516(c)(1)) is amended by inserting “assessments for tobacco research made available under section 522(e)(5),” after “under subsection (a)(2),”.

SEC. 1153. CONFORMING AMENDMENTS.

Section 320B(c)(1) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314h(c)(1)) is amended—

(1) by inserting “(A)” after “(1)”;

(2) by striking “by” at the end and inserting “or”; and

(3) by adding at the end the following:

“(B) in the case of the 2003 marketing year, the price support rate for the kind of tobacco involved in effect under section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445) at the time of the violation; by”.

CHAPTER 3—IMPLEMENTATION

SEC. 1161. REGULATIONS.

(a) **IN GENERAL.**—The Secretary of Agriculture may promulgate such regulations as are necessary to implement this subtitle and the amendments made by this subtitle.

(b) **PROCEDURE.**—The promulgation of the regulations and administration of this subtitle and the amendments made by this subtitle shall be made without regard to—

(1) the notice and comment provisions of section 553 of title 5, United States Code;

(2) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and

(3) chapter 35 of title 44, United States Code (commonly known as the “Paperwork Reduction Act”).

(c) **CONGRESSIONAL REVIEW OF AGENCY RULE-MAKING.**—In carrying out this section, the Sec-

retary shall use the authority provided under section 808 of title 5, United States Code.

SEC. 1162. EFFECTIVE DATE.

This subtitle and the amendments made by this subtitle shall apply to the 2004 and subsequent crops of each kind of tobacco.

NOMINATION OF WILLIAM GERRY MYERS III

Mr. FRIST. Mr. President, as in executive session, I would have asked unanimous consent that on Monday, July 19, at a time determined by the majority leader, after consultation with the Democratic leader, the Senate proceed to executive session for the consideration of the nomination of William Myers to be U.S. circuit judge for the Ninth Circuit. That would have been objected to. The unanimous consent request would have gone on to say 5 hours of debate, to be equally divided, to be followed by a vote on the confirmation at 2:15 on Tuesday, July 20, with no intervening action or debate. That unanimous consent would have been objected to by the other side of the aisle.

EXECUTIVE SESSION

NOMINATION OF WILLIAM GERRY MYERS III TO BE UNITED STATES CIRCUIT JUDGE FOR THE NINTH CIRCUIT

Mr. FRIST. Mr. President, at this juncture, I now move to proceed to executive session for the consideration of Calendar No. 603.

The PRESIDING OFFICER. Without objection, it is so ordered. The question is on agreeing to the motion.

The motion was agreed to.

The Senate will now go into executive session and proceed to the nomination of William Gerry Myers III, of Idaho, to be United States Circuit Judge for the Ninth Circuit, which the clerk will report.

The legislative clerk read the nomination of William Gerry Myers III, of Idaho, to be United States Circuit Judge for the Ninth Circuit.

CLOTURE MOTION

Mr. FRIST. I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on Executive Calendar No. 603, William Gerry Myers III of Idaho, to be United States Circuit Judge for the Ninth Circuit, Vice Thomas G. Nelson, retiring.

Bill Frist, Orrin Hatch, Christopher Bond, Chuck Hagel, Ted Stevens, John Cornyn, Wayne Allard, Lindsey Graham, Sam Brownback, Gordon Smith, Lisa Murkowski, Lamar Alexander, Robert Bennett, Elizabeth